IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 899 of 2006

Baliram Ladagya Patil .. Appellant

V/s

Devaji Govind Patil ...Respondent

Shri Rajesh Datar for Appellant

Shri Sachin Pande i/b Rajiv Patil for Respondent

CORAM:S.R.SATHE,J.

DATED:10th Aug. 2007

P.C.:-

1. Heard both the learned Advocates.

2. This Second Appeal is filed by the original plaintiff. Plaintiff had filed Regular Civil Suit NO.68 of 1993 for possession of the suit land. It was alleged by him that the Respondent is his uncle and partition had taken place between the Respondent and plaintiff’s father. In the said partition suit land was given to the share of plaintiff’s father and he was in exclusive possession of the same. According to the plaintiff the Respondent original defendant obtained

plaintiff's signature on stamp paper by playing fraud and dispossessed him. Hence he filed the above mentioned suit. The trial Court accepted the plaintiff's case and decreed the suit.

3. The defendant filed Civil Appeal NO.41 of 1997. The First Appellate Court allowed the appeal and dismissed the plaintiff's suit. Being aggrieved by the same plaintiff has filed the present appeal.

4. From the perusal of the judgment of the learned 2nd Ad Hoc Additional District Judge, Raigad it is very clear that she has given much importance to the judgment passed in earlier Regular Civil Appeal NO.30 of 1992. Admittedly present parties to the suit were parties to the said appeal. In that appeal it was held that the suit property is jointly owned by the plaintiff and defendants and they are co-sharers. Not only that but the learned Additional District Judge also held that there is abandoned evidence to show that the defendant is in possession of the said land as a co-owner. The learned First Appellate court also negatived the plaintiff's case with regard to alleged fraud. Thus it is clear that the learned Additional District Judge has considered the entire evidence in its proper perspective and has recorded finding that the plaintiff has failed to prove his case that he was in possession of the suit land and

defendant dispossessed him playing fraud on him. There is nothing on record to show that the said finding of the First Appellate Judge is perverse. Thus, no substantial question of law is involved in the present appeal.

Hence the appeal is dismissed in limine.

(S.R.SATHE,J.)